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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/981,847
Filing Date: October 18, 2001
Appellant(s): KONIG, EDELBERT

Alfred K. Dassler
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 13 August 2008 appealing from the Office action mailed 17 April 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

6,098,108	Sridhar	7-2001
WO 0049501	Collin et al.	8-2000
5,537,626	Kraslavsky	7-1996
4,688,170	Waite et al.	8-1987
Official Notice		

McGregor, S."Designing User Interface Tools For The X Window System" COMPCON Spring '89. Thirty-Fourth IEEE Computer Society International Conference: Intellectual Leverage, Digest of Papers.27 Feb.-3 March 1989 Page(s): 243 – 246.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3-7, 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sridhar (US Patent 6,098,108) in view of Collin, Zeev (International Publication Number WO 00/49501) and Waite et al. (US Patent 4,688,170), hereinafter referred to as Sridhar, Collin and Waite respectively.

In reference to claim 1, Sridhar discloses a method for establishing a data connection between computing systems within a network through access of directory information such as network address and employed protocol, (abstract). Sridhar explicitly discloses:

- A method for establishing a data connection and for transmitting data from a first computing unit (i.e. client computer) and a second computing unit (I.e. server computer), (column 5, line 26 to column 6, line 26), which comprises:
    - In the first computing unit, selecting and reading out from a database (Figure 16-item 1620) in a selection program (Figure 16-1535), an address of the second computing unit, (column 6, lines 22-26 and column 24, line 57 to column 6, line 11);
    - Establishing a connection with the address of the second computing unit, (column 6, lines 22-26 and column 24, line 57 to column 6, line 11);
    - Initially performing a version comparison between the first and second computing units with respect to an employed communications protocol, (column 9, line 44 to column 11, line 39);and
    - After the communications protocol is determined, establishing a data connection for transmitting data, (column 9, line 44 to column 11, line 39).

Although Sridhar discloses substantial features of the claimed invention, the reference fails to disclose the aforementioned connection method to include: displaying a specified number of diagnostics programs stored in the second computing unit after the data connection is established; selecting and starting one of the diagnostics programs

via the first computing unit; and transmitting results of the one diagnostics program to the first computing unit. Nonetheless, modifying the communication method as disclosed by Sridhar so as to employ diagnostic server applications would have been an obvious modification for one of ordinary skill in art at the time of the invention, as further evidenced by Collin.

In an analogous art, Collin discloses a method for establishing communication channels between computing system so as to transmit information related to diagnostic modules (abstract). Collin further discloses: displaying (Figures 4 and 5) a specified number of diagnostics programs after the data connection is established (pages 3-4; page 9), selecting and starting one of the diagnostics programs via the first computing unit (i.e. client), (pages 9-11); and transmitting results of the one diagnostics program to the first computing unit, (page 3, line 1 to page 5, line 26). This modification to the method disclosed by Sridhar would have been obvious because one of ordinary skill in the art would have been so motivated to accordingly implement these limitations so as to assist the user monitoring systems for performing diagnostics thereby optimizing communications between the computer systems, (Collin page 4, lines 3-5). Although Sridhar and Collin show substantial features of the claimed invention, specifically diagnostic programs stored in the memory of the second computing unit, (Collin page 3; pages 8-9). However, the references fail to explicitly disclose the method monitoring a second computing unit controlling a printing unit. Nonetheless, establishing multi-protocol communication between computers connected to printing presses (i.e. printer) was well known in the art, as further evidenced by Waite. Therefore, this would have

been an obvious modification to the method as disclosed by Sridhar and Collin for one of ordinary skill in the art at the time of the invention.

In an analogous art, Waite discloses a method for establishing communication between diverse computers in a network via selecting an appropriate channel that communicates using the specified protocol of the intended recipient, (Waite abstract and column 1, line 64 to column 2, line 40). Waite further discloses this method is employed between computers in which a printing press is connected, (Wait column 3, line 24 to column 4, line 5; Figure 2-item 44). This modification to the method disclosed by Sridhar and Collin would have been obvious because one of ordinary skill in the art would have been so motivated to accordingly implement these limitations so as to assist the user in monitoring systems for performing diagnostics on peripheral devices (e.g. printers, modems, disk drives, displays) and thereby optimizing communications between the computer systems, (Collin page 4, lines 3-5 and Waite Figure 2).

In reference to claim 12, Sridhar discloses a system for establishing a data connection between computing systems within a network through access of directory information such as network address and employed protocol, (abstract, and Figure 14). Sridhar explicitly discloses:

- A computing unit comprising:
- A memory (Figure 14-item 1457) and at least one of hardware (Figure 14-item 1453) or software (Figure 15), (column 23, line 57 to column 25, line 2), configured for:

- selecting and reading out from a database (Figure 16-item 1620), in a selection program (Figure 16-1535), an address of the second computing unit, (column 6, lines 22-26 and column 24, line 57 to column 6, line 11) for establishing a connection with the address of the second computing unit, (column 6, lines 22-26 and column 24, line 57 to column 6, line 11) for
- Initially performing a version comparison between the computing units with respect to an employed communications protocol, (column 9, line 44 to column 11, line 39) and for; and
- For establishing, after the communications protocol is determined, a data connection for transmitting data, (column 9, line 44 to column 11, line 39) and transmitting data from a first computing unit (i.e. client computer) and a second computing unit (I.e. server computer), (column 5, line 26 to column 6, line 26).

Although Sridhar discloses substantial features of the claimed invention, the reference fails to disclose the aforementioned connection method to include: displaying a specified number of diagnostics programs stored in the second computing unit after the data connection is established; selecting and starting one of the diagnostics programs via the first computing unit; and transmitting results of the one diagnostics program to the first computing unit. Nonetheless, modifying the communication method as disclosed by Sridhar so as to employ diagnostic server applications would have been an

obvious modification for one of ordinary skill in art at the time of the invention, as further evidenced by Collin.

In an analogous art, Collin discloses a method for establishing communication channels between computing system so as to transmit information related to diagnostic modules (abstract). Collin further discloses: displaying (Figures 4 and 5) a specified number of diagnostics programs after the data connection is established (pages 3-4; page 9), selecting and starting one of the diagnostics programs via the first computing unit (i.e. client), (pages 9-11); and transmitting results of the one diagnostics program to the first computing unit, (page 3, line 1 to page 5, line 26). This modification to the method disclosed by Sridhar would have been obvious because one of ordinary skill in the art would have been so motivated to accordingly implement these limitations so as to assist the user monitoring systems for performing diagnostics thereby optimizing communications between the computer systems, (Collin page 4, lines 3-5). In reference to claim 3, Sridhar and Collin disclose substantial features of the claimed invention specifically: displaying a specified number of diagnostics programs, selecting and starting one of the diagnostics programs via the first computing unit (i.e. client); and transmitting results of the one diagnostics program to the first computing unit, (Collin page 3, line 1 to page 5, line 26). However, the references fail to explicitly disclose the method monitoring a second computing unit controlling a printing press. Nonetheless, establishing multi-protocol communication between computers connected to printing presses (i.e. printer) was well known in the art, as further evidenced by Waite.

Therefore, this would have been an obvious modification to the method as disclosed by Sridhar and Collin for one of ordinary skill in the art at the time of the invention.

In an analogous art, Waite discloses a method for establishing communication between diverse computers in a network via selecting an appropriate channel that communicates using the specified protocol of the intended recipient, (Waite abstract and column 1, line 64 to column 2, line 40). Waite further discloses this method is employed between computers in which a printing press is connected, (Wait column 3, line 24 to column 4, line 5; Figure 2-item 44). This modification to the method disclosed by Sridhar and Collin would have been obvious because one of ordinary skill in the art would have been so motivated to accordingly implement these limitations so as to assist the user in monitoring systems for performing diagnostics on peripheral devices (e.g. printers, modems, disk drives, displays) and thereby optimizing communications between the computer systems, (Collin page 4, lines 3-5 and Waite Figure 2).

In reference to claim 3, Sridhar, Collin and Waite disclose displaying a specified number of diagnostics programs, selecting and starting one of the diagnostics programs via the first computing unit (i.e. client); and transmitting results of the one diagnostics program to the first computing unit, (Collin page 3, line 1 to page 5, line 26); this method is employed between computers in which a printing press is connected, (Wait column 3, line 24 to column 4, line 5; Figure 2-item 44).

In reference to claim 4, Sridhar, Collin and Waite further show the method which includes providing a table (i.e. database) wherein diagnostics programs are assigned to specific devices (i.e. printing presses), so that when establishing a connection, the diagnostic programs pertaining to a device are displayed for selection, (Collin page 3, line 1 to page 5, line 26).

In reference to claim 5, Sridhar, Collin and Waite show the method which includes depending upon the diagnostic program (i.e. server application) that is selected , establishing a communications protocol via which data is transmitted between the first and second computing units, (Sridhar column 9, line 44 to column 11, line 39).

In reference to claim 6, Sridhar, Collin and Waite show the method which includes depending upon the diagnostic program that is selected, providing a specified number of data ports via which data is transmitted, (Waite column 3, lines 24 to column 4, line 5 and Figure 2-item 30).

In reference to claim 7, Sridhar Collin and Waite show the method which includes transmitting specified data only via specified data ports, (Waite column 3, lines 24 to column 4, line 5 and Figure 2-item 30).

In reference to claim 10, Sridhar, Collin and Waite disclose selecting a type of control with which the printing press is controlled by the computing unit and depending

upon the control that is selected, selecting at least one of a communications protocol and a diagnostic program (Sridhar column 9, line 44-column 11, line 39; Collin page 3, line 1 to page 5, line 26; pages 9-11).

In reference to claim 11, Sridhar, Collin and Waite selecting a type of control with which the printing press is controlled by the computing unit and depending upon the control that is selected, displaying at least one of a communications protocol and a diagnostic program (Sridhar column 9, line 44-column 11, line 39; Collin page 3, line 1 to page 5, line 26; pages 9-11).

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sridhar in view of Collin and Waite, as applied to claims 1 above, and further in view of Official Notice.

In reference to claim 8, although Sridhar, Collin, and Waite disclose substantial features of the claimed invention the references fail to disclose outputting the data in parallel via the data ports, and transmitting the data output serially in data packets via the data connection. However, the Examiner serves Official Notice that these limitations were well known in the art at the time of the invention and therefore would have been obvious modifications to the method as disclosed by Sridhar, Collin, and Waite for one of ordinary skill in the art at the time of the invention. One of ordinary skill in the art would have been so motivated to accordingly modify the aforementioned method so as

to increase the output rate of data through selected ports, thereby improving system efficiency.

In reference to claim 9, Sridhar Collin, Waite, and Official Notice show the method which includes transmitting providing in each packet an identifier for the data port, which indicates the data port from which data was output, (Sridhar column 15, line 56 to column 6, line 64).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sridhar, Collin and Waite as applied to claim 1, and further in view of Kraslavsky et al. (US Patent 5,537,626), hereinafter referred to as Kraslavsky.

In reference to claim 13, Sridhar, Collin and Waite show substantial features of the claimed invention, specifically diagnostic programs stored in the memory of the second computing unit, (Collin page 3; pages 8-9). However, the references fail to show that the diagnostic programs are used for monitoring a printing press. Nonetheless, diagnostic programs for printers were well known in the art at the time of invention as further evidenced by Kraslavsky. Therefore, it would have been obvious for ordinary skill in the art at the time of invention, to accordingly modify the method as disclosed by Shridhar, Collin and Waite.

In an analogous art, Kraslavsky discloses a method for coupling a printer device to a network (i.e. LAN), and subsequently transferring printer related information between the printer and the network to control printer operations, (abstract).

Kraslavsky explicitly discloses storing printer diagnostic applications in a memory (column 21, lines 15-21; column 56, line 60-67). One of ordinary skill in the art would have been motivated to accordingly modify the aforementioned method, so as to allow the printer to export a large quantity of very specific printer status data (i.e. diagnostic information) to the network (Kraslavsky column 1,line 64 to column 2, line 3) which thereby leads to system optimization (Collin page 4, line 1-5).

(10) Response to Argument

In considering Appellant's arguments the following remarks are noted:

(I) Appellant contends that Collin does not teach or suggest displaying a specified number of diagnostic programs stored in a second computing unit after the data connection is established, and selecting and starting one of the diagnostic programs via the first computing unit.

(II) Appellant contends that the Examiner has the incorrect opinion that Collin discloses two different computing systems, one computer system being the server and one computer system being the client.

(III) Appellant contends that Sridhar, Collin, Waite and Kraslavsky do not disclose a remote diagnostic service for printing presses.

(IV) Appellant contends that Collin discloses a single computer system.

(V) Appellant contends that there is no disclosure or suggestion in Collin that it is absolutely necessary that the client and the server modules implement via an X-system

are device independent and network transparent and that the data exchange occurs between a first and second computing unit.

In considering (I), Appellant contends that Collin does not teach or suggest displaying a specified number of diagnostic programs stored in a second computing unit after the data connection is established, and selecting and starting one of the diagnostic programs via the first computing unit. Examiner respectfully disagrees. Examiner asserts Collin explicitly discloses the computer system diagnostics method that involves displaying information in manner selected by the user (page 3, lines 11; page 4, lines 1-5), wherein the aforementioned manner comprises displaying (Figures 4 and 5) a specified number (i.e. one or two; run servers 208 and/or 210; page 9, lines 1-5) of diagnostic programs, (i.e. server modules that assist in the diagnostics of a computer system; pages 3-4; page 9). Collin further discloses that the aforementioned server programs are stored on the second computing unit (i.e. server; Figure 2-item 208 and 210; pages 8-9), as further evidenced by disclosure that "problems at the customer site (i.e. first computing unit/client; Figure 2-item 202) can be solved without installing debuggers and sending engineers to debug the problem on-site…user at the site to run servers 208 and/or 210 in the background…",(page 9, lines 1-11). Furthermore Collins explicitly discloses, "The client code is designed to interact with code from the server driver 102/and or the server application 104. This interaction allows the server aplication 104 to compile an online database of messages, events, sigals, or other information from the X-application 108 and/or the X-system 106. It should be noted that during

operation the X-system 106 and the X-application 108 search for the appropiate sever and, if found, ceate a channel of communcation with it....Advantageously, if the server is not found, the cleint does not consume resources from the computer systen 100" (page 8). This disclosure futrther evidenced that client and server, as disclosed by Collin, are distinclty separate computing units in communication with each other, wherein the information server is disclosed to comprise the server driver and server aplication (page 4). Examiner additionally asserts that Collin explicitly discloses performing the aforementioned displaying steps after the data connection is established, (page 3, lines 11; pages 9-10). Examiner additionally asserts that Collin discloses selecting (i.e. selected by selecting [through a standard mouse operation or the like]) and starting (i.e. run servers) one of the diagnostic programs via the first computing unit (i.e. client; pages 10-11). Therefore, Examiner asserts that Sridhar in combination with Collin does teach all of the limitations recited in claims 1 and 12, as set forth in the previous Office actions.

In considering (II), Appellant contends that the Examiner has the incorrect opinion that Collin discloses two different computing systems, one computer system being the server and one computer system being the client. Examiner respectfully disagrees. Examiner asserts that Collin discloses kernel debugging as a deficiency of the prior art and furthermore that the endeavored improvement in related debugging systems is tracking system problems at remote sites (See Collin page 2, paragraph 1). This clearly evidences that the unlike the prior art that is limited to one computer or

small scale system, Collin is intended to implement a method that is to execute on remote computer units and therefore must support some type of communication between a first and second computer. The aforementioned endeavor of Collin's invention would be irrelevant in an environment where both the client and server modules are implemented on the same computer, as suggested by Appellant, as this configuration would suffer from identical performance limitations regarding small-scale systems as the prior art identified by Collin. In addition, Collin expressly discloses that a communication channel is established between a client module and a server module (page 3, lines 11). Collin further discloses that information may be viewed remotely via another computing unit (i.e. remote client; page 7, lines 15-19), and that the aforementioned computing units are equipped with network interface cards (page 12, lines 10-17) thereby enabling communication via a network. Again, Examiner asserts that network interface cards employed to establish network communication channels would be superfluous elements to the function of a single device, client and server configuration as suggested by Appellant. Therefore, the disclosure of Collin indicates that a network connection can be established between the client module of the first computer unit (i.e. remote client) and a server module of a second computing unit. The culmination of these teachings clearly evidence that the client module and server module are implemented on two distinct computers. Therefore, Examiner asserts that Shridhar, Collin, and Waite disclose, inter alia, two different computing systems, one computer system being the server and one computer system being the client.

In considering (III), Appellant contends that Sridhar does not disclose a remote diagnostic service for printing presses. Examiner respectfully disagrees. Examiner asserts that Sridhar expressly discloses selecting and reading out from a database (Figure 16-item 1620) in a selection program (Figure 16-1535), an address of the second computing unit, (column 6, lines 22-26 and column 24, line 57 to column 6, line 11). Furthermore, Waite discloses a second computer unit controlling a printing unit (column 3, line 24-column 4, line 5). In response to Appellant's arguments that the references fail to show certain features of Appellant's invention, it is noted that the features upon which Appellant relies (i.e., diagnostic service for printing presses) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Additionally, Examiner again asserts that the language of claim 1and claim 12 explicitly requires that the diagnostic programs merely be stored in the second computing unit and that the second computing unit controls a printing unit. The claims do not imply nor suggest that the aforementioned diagnostic program must be related to the operation of the printing press, or that the diagnostic program be for the printing press as suggested by Appellant. The claim language also fails to explicitly or implicitly exclude the interpretation that the diagnostic programs relate to function of the second computing unit, as applied by the Examiner for purposes of the rejections. As a result, Examiner asserts that Shridhar, Collin and Waite discloses, inter alia, selecting an reading out

from a database, in a selection program, an address of the second computer unit controlling a printing unit, of Appellant's claims 1 and 1.2

In considering (IV), Appellant contends that Collin discloses a single computer system. Examiner respectfully disagrees. Examiner asserts that Collin discloses information can be passed to the server application running on a computer system in a number of ways, which is inclusive of a kernel level communication, (i.e. embodiment (i) from an X-system 106 at the kernel mode level; see Collin page 7, paragraph 1). However, Collin also expressly teaches that information passed to the application is not limited to this aforementioned kernel mode but also that information is passed to the server module from another system, (i.e. embodiment (vi), see Collin page 7, paragraph 1). It is clearly evident that Collin intends for the cited communication between the client module and the server module to be accomplished between a first and a second computing unit. Furthermore, as previously addressed in the Office action dated 18 October 2007, Examiner asserts that the Collin reference expressly discloses employing an X-application and X-system (Figure 1-items 106&108) to pass information between client and server modules (page 7, lines 5-15; page 8, lines 1-13), where X-based applications are well known in the art to support device independence and network transparency. As expressly disclosed by McGregor ("Designing User Interface Tools For The X Windows System"- IEEE 1989), computing systems with X-applications have the functionality to view and manipulate windows, even though the actual applications are running on disparate operating systems and processor architectures (*Abstract*; page

243). Specifically, McGregor discloses users accessing remote application running on a server regardless of what workstation (i.e. client) they employ (*Network Transparency Sets X Apart*; page 224). Therefore, the Examiner asserts that the system as disclosed by Collin clearly indicates to those with ordinary skill in the art, that the aforementioned client and server modules implemented via an X-system are inherently device independent and network transparent. Clearly through X-based architecture the client module, as disclosed by Collin, can access and manipulate an application running of a server module running remotely on a separate computing unit (i.e. first computing unit and second computing unit). Examiner additionally notes McGregor was cited only to further evidence inherence, as device independence and network transparency were well known characteristics of X-applications. Lastly, Examiner asserts that Collin discloses kernel debugging as a deficiency of the prior art and furthermore that the endeavored improvement in related debugging systems is tracking system problems at remote sites (See Collin page 2, paragraph 1). This clearly evidences that the unlike the prior art that is limited to one computer or small scale system, Collin is intended to implement a method that is to execute on remote computer units and therefore must support some type of communication between a first and second computer. Consequently, it is concluded that the related art cited in Collin does not provide evidence that Collin is not related to exchange between two computer systems, but to the contrary, the section evidences that the teachings of Collin intends to cure this deficiency in the prior conventional systems in the art (See Collin page 2, paragraph 2).

Also, Examiner notes that the Sridhar reference is cited in the Office action as teaching the limitation for establishing a connection between a first and second computing unit, (i.e. "establishing a connection with the address of the second computing unit ...and after the communications protocol is determined, establishing a data connection for transmitting data"; Sridhar, column 9, line 44-column 11, line 39; column 6, lines 22-26; column 24, line 57-column 25, line 11). Therefore, Collin is not relied upon to teach this limitation argued by Appellant but is relied upon to evidence obviousness of features not taught by Sridhar. As a result, Examiner asserts that for sake of argument, if Collin fails to disclose communication between connection two computer system that the combination of Sridhar and Collin teaches the establishing communication between a first and second computer (i.e. client and server communication as taught by Sridhar) , inter alia, of the claimed invention.

In considering (V), Appellant contends that there is no disclosure or suggestion in Collin that it is absolutely necessary that the client and the server modules implemented via an X-system are device independent and network transparent and that the data exchange occurs between a first and second computing unit, so as to provide support for Examiner's notion of inherency. Examiner respectfully disagrees. As previously addressed, in considering (V) above, Collin expressly teaches that information passed to the application is not limited to a kernel mode but also that information is passed to the server module from another system, (i.e. embodiment (vi), see Collin page 7, paragraph 1). It is clearly evident that Collin intends for the cited communication

between the client module and the server module to be accomplished between a first and a second computing unit. Furthermore, it would be absolutely necessary for the X-application in the X-system as taught by Collin to function with the operability of device independent data exchange between a first computing device and a second remote computing device, in order to successfully accomplish client-server interaction that allows passing information generated from one client module to the server module at another system. Also, Examiner reiterates that it was known at the time of the invention that in a conventional X-system comprising distributed computer devices, a first computing device would be able to control and further manipulate an X-application, or an application specifically designed to operate in the X-system, that is remotely resident on another computing device also located in that X-system. Therefore, it is evident that in the computing environment, as taught by Collin, an X-application is employed to monitor configuration problems in the X-system. The X-application being resident at the client is conventionally controlled and further manipulated at the remote server, so as to communicate message, events and signal information from the client module to the server module as required by Collin. As a result, the necessarily present inherent function of the X-application and X-system it is clearly suggested by the Collin reference.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/LaShanya R Nash/

Examiner, Art Unit 2453

Conferees:

/Salad Abdullahi/

Primary Examiner, Art Unit 2457

/ARIO ETIENNE/

Supervisory Patent Examiner, Art Unit 2457